Ministry
of Foreign Affairs
Undersecretary of State
Aleksander Stępkowski

Warsaw, 7th January 2016

Mr Frans Timmermans
First Vice-President
of the European Commission

Dear President,

In response to your letter of 30 December 2015 (Ares2015), in which you express concern about the new Polish media law, I would like to take this opportunity to stress that Poland fully acknowledges media freedom and pluralism regarding them as a crucial element of a pluralistic society, strictly connected with the fundamental right of freedom of expression enshrined in Article 10 ECHR and Article 11 of the Charter of Fundamental Rights. Freedom of information and freedom of speech are fully appreciated and respected by the Polish Government, which is taking the necessary steps to fully ensure them.

In this context, I would like to clarify that recital 94 of the Audiovisual Media Services Directive (Directive 2010/13/EU), which you have invoked in your letter has nothing to do with the Act of 30 December 2015 amending the Broadcasting Act of 1992 that you have referred to. The amending act of 30 December 2015 deals with the State's proprietary powers exercised in companies being under the ownership of the Polish State and it is by no means an implementation measure of Directive 2010/13/EU.

Competences of the National Broadcasting Council (KRRiT), as provided for in Article 6 of the Broadcasting Act 1992 that ensures media pluralism and freedom of communication, stay untouched by the amending statute. The only derogation concerns the Council's power to decide about the composition of the management in public media companies as provided for in Article 6.2 point 11. However, it was necessary to remove this power in order to establish proper relations between the market regulator (National Broadcasting Council - KRRiT) and market operators (public service media companies) and it cannot in any way be considered to have an adverse effect on the media pluralism.

It is a well-recognized principle that a media market regulator such as the Polish National Broadcasting Council should play no part in the appointment of senior managers to the services it regulates. Unfortunately, this fundamental standard was for a long time denied by the Polish Broadcasting Act 1992 and this situation was undermining the necessary independence of the regulator vis-à-vis the regulated companies.

However, all the regulatory powers vested in the National Broadcasting Council, including those directed towards ensuring pluralism, remain untouched. There is no EU law that would require a media market regulatory body to have the power to determine the composition of management boards of public media companies. If that would be the case, there would be no reason why such extraordinary powers should not be granted in relation to private broadcasting companies, which is unacceptable.

Mr President, it seems someone has provided you with misleading information that is biased against the Polish Government in relation to the amending Act of 30 December 2015. Let me take this opportunity to draw your attention to the recent statement by the Polish Journalists' Association (SDP) dated 31 December, 2015, which reads as follows:

"In recent years, public media have reached a state of pathology which is characterized, among other things, by political partisanship and the lack of pluralism. In turn, this has led to manipulation and presentation of a distorted picture of Poland. Public media are not fulfilling their mission or duties which the Polish Journalists' Association has pointed out during its Extraordinary Assembly, calling for a radical change in this respect."

The Polish Government is going to meet the expectations expressed by the biggest Polish organization of media professionals. The law adopted by the Polish Sejm on December 30 was

declared by the said Association to be the "*first step towards building media that will create room for public debate in an honest and pluralistic manner.*" The Polish Government sides with this opinion. I took the liberty of attaching the whole statement by SDP to this letter.

Mr President, media reports, even if believed to be pluralistic and free, often represent political interests and might appear to be an inappropriate base for official communication with Member States. The Polish Government is always open to cooperation with the European Commission. However, exposing the Polish Government to interventions inspired by unjust, biased and politically engaged enunciations might have an undesirable effect, which is to be carefully avoided.

I hope, you will find above clarification useful.

Please, accept, Mr President, the assurance of my highest consideration.

Yours sincerely,

Aleksander Stępkowski

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Statement by Main Board of Polish Journalists' Association

We are deeply surprised that serious European institutions are shaping their opinion about changes to the public media in Poland without knowledge of basic facts.

In recent years, public media have reached a state of pathology which is characterised, among other things, by political partisanship and lack of pluralism. In turn, this has led to manipulation and presenting a distorted picture of Poland. Public media are not fulfilling their mission or duties, which the Polish Journalists' Association has pointed out during its Extraordinary Assembly, calling upon radical change in this respect.

The law which Polish Sejm has adopted on 30 December can be regarded as only a first step towards building media that will create room for public debate in an honest and pluralistic manner. We expect that a new media law will be drafted and adopted over the coming months. We also expect that work on the law will bring together civic organizations and circles professionally involved in media.

We expect that the final shape of the public media legal regime will place them outside the influence of political parties, ensuring conditions in which public media will be able to conduct their information and cultural mission in a reliable way.

Main Board of the Polish Journalists' Association

31 December 2015

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Oświadczenie
Zarządu Głównego Stowarzyszenia Dziennikarzy Polskich

Jesteśmy głęboko zdziwieni, że poważne instytucje europejskie kształtują swoją opinię na temat zmian w mediach publicznych w Polsce bez znajomości podstawowych faktów.

Media publiczne w ciągu ostatnich lat osiągnęły stan patologii charakteryzujący się między innymi jednostronnością polityczną i brakiem pluralizmu, co prowadziło do manipulacji i przedstawiania nieprawdziwego obrazu Polski. Media publiczne nie wypełniają swojej misji ani obowiązków, na co SDP wskazało w czasie swojego Nadzwyczajnego Zjazdu, domagając się radykalnych zmian.

Uchwalona 30 grudnia br. przez Sejm ustawa może być traktowana jedynie jako pierwsze posunięcie na drodze do budowy mediów, które będą tworzyć przestrzeń dla debaty publicznej w sposób rzetelny i pluralistyczny. Oczekujemy, że w ciągu najbliższych miesięcy zostanie przygotowana i uchwalona nowa ustawa medialna. Spodziewamy się też, że w pracach nad ustawą wezmą udział organizacje obywatelskie i środowiska zawodowo związane z mediami.

Oczekujemy, że ostateczny kształt ustroju mediów publicznych uniezależni je od wpływów partii politycznych zapewniając warunki dla pełnienia przez nie rzetelnie misji informacyjnej i kulturotwórczej.

Zarząd Główny SDP

31 grudnia 2015 r.

http://sdp.pl/informacje/12219,oswiadczenie-zarzadu-glownego-stowarzyszenia-dziennikarzy-polskich-,1451576785